

COUNTY ZONING ACT

Act 183 of 1943

AN ACT to provide for the establishment in portions of counties lying outside the limits of incorporated cities and villages of zoning districts within which the proper use of land and natural resources may be encouraged or regulated by ordinance, and for which districts provisions may also be adopted designating the location of, the size of, the uses that may be made of, the minimum open spaces, sanitary, safety, and protective measures that are required for, and the maximum number of families that may be housed in dwellings, buildings, and structures that are erected or altered; to designate the use of certain state licensed residential facilities; to provide for a method for the adoption of ordinances and amendments to ordinances; to provide for emergency interim ordinances; to provide by ordinance for the acquisition by purchase, condemnation, or otherwise, of property that does not conform to the requirements of the zoning districts so provided; to provide for the administering of ordinances adopted; to provide for conflicts with other acts, ordinances, or regulations; to provide sanctions for violations; to provide for the assessment, levy, and collection of taxes; to provide for referenda; to provide for appeals; to authorize the purchase of development rights; to authorize the issuance of bonds and notes; to provide for special assessments; and to prescribe penalties and provide remedies.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—Am. 1976, Act 394, Eff. Mar. 31, 1977;—Am. 1978, Act 640, Eff. Apr. 12, 1979;—Am. 1994, Act 23, Eff. May 1, 1994;—Am. 1996, Act 569, Eff. Mar. 31, 1997;—Am. 1998, Act 151, Eff. Mar. 23, 1999 .

The People of the State of Michigan enact:

125.201 Zoning ordinance for establishment of land development regulations and districts; division of county into districts; purposes; uniform regulations; jurisdiction over wells; ordinance subject to electric transmission line certification act.

Sec. 1. (1) The county board of commissioners of a county in this state may provide by zoning ordinance for the establishment of land development regulations and districts in the portions of the county outside the limits of cities and villages which regulate the use of land; to meet the needs of the state's citizens for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land; to insure that uses of the land shall be situated in appropriate locations and relationships; to limit the inappropriate congestion of population and the overcrowding of land, transportation systems, and other public facilities; to facilitate adequate and efficient transportation systems, sewage disposal, and water, energy, education, recreation, and other public service and facility needs; and to promote public health, safety, and welfare. For those purposes the county board of commissioners may divide the county into districts of a number, shape, and area as is considered best suited to carry out this act. The county board of commissioners of a county may use this act to provide by ordinance for the establishment of land development regulations and districts in the portions of the county outside the limits of cities and villages which apply only to land areas and activities which are involved in a special program to achieve specific land management objectives and avert or solve specific land use problems, including the establishment of land development regulations and districts in areas subject to damage from flooding or beach erosion, and for those purposes may divide the county into districts of a number, shape, and area as is considered best suited to accomplish those objectives. Land development regulations may also be adopted designating or limiting the location, size of, and the specific uses for which a dwelling, building, or structure may be erected or altered; the minimum open spaces, sanitary, safety, and protective measures that shall be required for those dwellings, buildings, and structures; and the maximum number of families which may be housed in a building or dwelling erected or altered. The regulations shall be uniform for each class of land or buildings throughout each district, but the regulations in 1 district may differ from those in other districts. A county board of commissioners may not under this act, or under an ordinance adopted pursuant to this act, regulate or control the drilling, completion, or operation of an oil or gas well, or any other well drilled for oil or gas exploration purposes and shall not have jurisdiction with reference to the issuance of permits for the location, drilling, completion, operation, or abandonment of those wells. Jurisdiction over those wells shall be vested exclusively in the supervisor of wells of the state, as provided in part 615 (supervisor of wells) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.61501 to 324.61527 of the Michigan Compiled Laws.

(2) An ordinance adopted pursuant to this act is subject to the electric transmission line certification act.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.201;—Am. 1952, Act 42, Imd. Eff. Apr. 1, 1952;—Am. 1978, Act 640, Eff.

COUNTY ZONING ACT

Apr. 12, 1979;—Am. 1995, Act 34, Imd. Eff. May 17, 1995 ;—Am. 1996, Act 46, Imd. Eff. Feb. 26, 1996.

125.201a Residence used to give instruction in craft or fine art; regulations not prohibited.

Sec. 1a. (1) A zoning ordinance adopted under this act shall provide for the use of a single family residence by an occupant of that residence for a home occupation to give instruction in a craft or fine art within the residence.

(2) This section does not prohibit the regulation of noise, advertising, traffic, hours of operation, or other conditions that may accompany the use of a residence described in subsection (1).

History: Add. 1994, Act 378, Eff. Mar. 30, 1995.

125.202 Formulation of zoning ordinance on initiative of county board of commissioners or on receipt of petition; vote.

Sec. 2. The county board of commissioners may proceed with the adoption of a zoning ordinance containing land development regulations and districts in accordance with this act upon appointment of a county zoning commission as provided in section 4. The county board of commissioners may appoint a county zoning commission for purposes of formulating a zoning ordinance on its own initiative or upon receipt of a petition requesting that action, as prescribed in this section. Upon receipt of a petition signed by a number of qualified and registered voters residing in that portion of the county outside of the limits of cities equal to not less than 8% of the total vote cast for all candidates for governor, at the last preceding general election at which a governor was elected, in that portion of the county outside the limits of cities, filed with the county clerk requesting that the county board of commissioners appoint a zoning commission for purposes of formulating a zoning ordinance, the county board of commissioners shall, at the next regular meeting, vote upon whether to initiate action under this act. Upon a majority vote of the membership of the board, the county board of commissioners shall formulate a zoning ordinance in accordance with this act.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.202;—Am. 1978, Act 640, Eff. Apr. 12, 1979.

125.203 Zoning ordinance; basis; considerations.

Sec. 3. The zoning ordinance shall be based upon a plan designed to promote the public health, safety, and general welfare, to encourage the use of lands in accordance with their character and adaptability and to limit the improper use of land, to conserve natural resources and energy, to meet the needs of the state's citizens for food, fiber, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land, to insure that uses of the land shall be situated in appropriate locations and relationships, to avoid the overcrowding of population, to lessen congestion on the public roads and streets, to reduce hazards to life and property, to facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public needs, and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources, and properties. The ordinance shall be made with reasonable consideration, among other things, to the character of each district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building, and population development.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.203;—Am. 1978, Act 640, Eff. Apr. 12, 1979.

125.203a Airport layout plan or airport approach plan; incorporation into plan required under § 125.203; adoption of zoning plan; ordinance; consistency.

Sec. 3a. (1) If, after an airport layout plan or airport approach plan is filed with the county zoning commission, a plan required under section 3 is adopted or revised, the county shall incorporate the airport layout plan or airport approach plan into the plan required under section 3.

(2) In addition to the requirements of section 3, a zoning ordinance adopted after the effective date of the amendatory act that added this section shall be adopted after reasonable consideration of both of the following:

(a) The environs of any airport within a district.

(b) Comments received at or before a public hearing under section 9 or 10 from the airport manager of any airport.

(3) If a zoning ordinance was adopted before the effective date of the amendatory act that added this section, the zoning ordinance is not required to be consistent with any airport zoning regulations, airport layout plan, or airport approach plan. However, a zoning ordinance amendment adopted or variance granted after the effective date of the amendatory act that added this section shall not increase any inconsistency that may exist between the zoning ordinance or structures or uses and any airport zoning regulations, airport layout plan, or airport approach plan. This

section does not limit the right to petition for submission of a zoning ordinance amendment to the electors under section 12.

(4) If a zoning ordinance is adopted after the effective date of the amendatory act that added this section, the zoning ordinance shall be consistent with any airport zoning regulations, airport layout plan, and airport approach plan. This section does not limit the right to petition for submission of a zoning ordinance to the electors under section 12.

History: Add. 2000, Act 385, Eff. Mar. 28, 2001.

125.204 County zoning commission; appointment, qualifications, and terms of members; vacancy; removal.

Sec. 4. (1) In each county in which the county board of commissioners exercises the authority conferred by this act, there shall be a permanent county zoning commission composed of 5 members. The county board of commissioners may provide by resolution for a zoning commission composed of not to exceed 11 members, appointed by the county board of commissioners.

(2) Two of the members on the zoning commission shall be individuals recommended for membership by the township boards of townships which are, or shall be subject to the county zoning ordinance. This requirement may be met as vacancies occur on zoning commissions which exist at the time this subsection takes effect.

(3) Each member of the zoning commission shall be selected upon the basis of the member's qualifications and fitness to serve as a member of a zoning commission and without consideration to the member's political activities. An elected officer of the county or an employee of the county board of commissioners shall not serve simultaneously as a member or as an employee of the zoning commission. One member of the zoning commission may be a member of the county board of commissioners.

(4) The first zoning commission appointed shall be divided as nearly as possible into 3 equal groups, with terms of each group as follows:

- (a) One group for 1 year.
- (b) One group for 2 years.
- (c) One group for 3 years.

(5) Upon the expiration of the terms of the members first appointed, successors shall be appointed in like manner for terms of 3 years each. The county board of commissioners shall provide for the filling of vacancies and for the removal of a member for misfeasance or nonfeasance in office.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.204;—Am. 1960, Act 86, Eff. Aug. 17, 1960;—Am. 1961, Act 229, Eff. Sept. 8, 1961;—Am. 1978, Act 640, Eff. Apr. 12, 1979.

125.205 County zoning commission; meetings; notice; hearings; officers and employees.

Sec. 5. The county zoning commission shall hold not less than 2 regular meetings annually, giving notice of the time and place by publication in a newspaper published in the county, and if a newspaper is not published in the county, then in a newspaper published in an adjacent county. Notice shall be given not more than 20 days nor less than 8 days before the meeting, at which meeting a person having an interest in the county, or the appointed representative of such a person, shall be heard relative to the matters that should properly come before the zoning commission. The zoning commission shall elect from its members a chairperson, a secretary, and other officers or committees as it considers necessary, and may engage the employees, including technical assistance, that it may require. The election of officers shall be held at least once in each 2-year period.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.205;—Am. 1978, Act 640, Eff. Apr. 12, 1979.

125.206 County zoning commission; compensation; expenses; warrants.

Sec. 6. Members of the county zoning commission may receive per diem compensation as determined by the county board of commissioners, and they shall be reimbursed for reasonable expenses actually incurred in the discharge of their duties as members. The total annual amount to be allowed as expenses of all members of the county zoning commission, including any compensation paid its employees, shall not exceed a reasonable sum, which sum shall be provided annually in advance by the county board of commissioners. The county treasurer shall draw warrants against such sums only upon vouchers signed by the chairman and secretary of the county zoning commission.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.206;—Am. 1960, Act 86, Eff. Aug. 17, 1960;—Am. 1961, Act 229, Eff. Sept. 8, 1961;—Am. 1973, Act 23, Eff. Mar. 29, 1974.

125.207 County zoning commission; recommendations.

Sec. 7. The county zoning commission shall adopt and file with the county board of commissioners recommendations as to the following:

- (a) A zone plan for the county outside of the limits of cities and villages, which plan shall be based upon an inventory of conditions pertinent to zoning in the county and the requirements of section 3.
- (b) The establishment of zoning districts including the boundaries of those districts.
- (c) The text of a zoning ordinance with the necessary maps and zoning regulations to be adopted for a zoning district or the county as a whole.
- (d) The manner of administering and enforcing the zoning ordinance.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.207;—Am. 1978, Act 640, Eff. Apr. 12, 1979.

125.208 County zoning commission; information and counsel.

Sec. 8. The county zoning commission is directed to make use of such information and counsel which may be furnished by appropriate public officials, departments or agencies, and all public officials, departments and agencies having information, maps and data pertinent to county zoning are hereby directed to make the same available for the use of the county zoning commission.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.208;—Am. 1960, Act 86, Eff. Aug. 17, 1960.

125.209 Public hearing; notice; affidavit of mailing.

Sec. 9. (1) Before submitting its recommendations of a tentative zoning plan to the county board of commissioners, the county zoning commission shall hold at least 1 public hearing. Notice of the hearing shall be given by 2 publications in a newspaper published in the county or, if a newspaper is not published in the county, then in a newspaper published in an adjacent county. The first publication shall be printed not more than 30 days and not less than 20 days, and the second not more than 8 days before the date of the hearing.

(2) Not less than 20 days' notice of the time and place of the hearing shall also be given by mail to each of the following:

(a) Each electric, gas, pipeline, and telephone public utility company, and the airport manager of each airport, that registers the name and mailing address of the company or airport with the county zoning commission for the purpose of receiving the notice of public hearing.

(b) Each railroad within the district or zone affected.

(3) The notices under this section shall include the places and times at which the tentative text and maps of the zoning ordinance may be examined. The county zoning commission shall maintain a file of each affidavit of mailing for each mailing made under this section. If an individual property or several adjacent properties are proposed for rezoning, notice of the proposed rezoning and hearing shall be given to the owners of the property in question at least 20 days before the hearing.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.209;—Am. 1960, Act 86, Eff. Aug. 17, 1960;—Am. 1961, Act 229, Eff. Sept. 8, 1961;—Am. 1978, Act 640, Eff. Apr. 12, 1979;—Am. 2000, Act 385, Eff. Mar. 28, 2001.

125.210 Submission of comments and proposed zoning ordinance to county board of commissioners; additional public hearings; notice; recommendations; vote; approval; change or departure from plans, text, or maps; report.

Sec. 10. After the hearing, the county zoning commission shall submit a summary of the comments received at the public hearing, and the proposed zoning ordinance, including any zoning maps, to the county board of commissioners. The county board of commissioners may hold additional public hearings if it considers it necessary. Notice of a public hearing held by the county board of commissioners shall be published in a newspaper which circulates in the county. The notice shall be given not more than 15 days nor less than 5 days before the hearing. After receiving the recommended zoning plan, the county board of commissioners, at a regular meeting or at a special meeting called for the purpose, shall consider the recommendations and vote upon the adoption of a zoning ordinance for the county. A zoning ordinance and any amendments shall be approved by a majority vote of the members of the county board of commissioners. The county board of commissioners shall not make a change or departure from the plans, text, or maps as certified by the zoning commission unless the proposed change or departure is first submitted to the zoning commission for its advice or suggestions. The zoning commission shall have 30 days from and after receipt of the proposed change or departure to send its report to the county board of commissioners.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.210;—Am. 1960, Act 86, Eff. Aug. 17, 1960;—Am. 1978, Act 640, Eff.

Apr. 12, 1979.

125.211 Submission of zoning ordinance and maps to department of commerce for approval; presumption; disapproval; effective date of zoning ordinance; filing; copy for public use.

Sec. 11. After the adoption of a zoning ordinance by the county board of commissioners, the ordinance, including zoning maps, signed by the chairperson of the county board of commissioners and certified by the county clerk, shall be submitted to the department of commerce for approval. The approval of the department of commerce shall be conclusively presumed unless the department, within 30 days after receipt, notifies the county clerk of its disapproval. Disapproval of a county zoning ordinance shall be based upon noncompliance or conflict with either state or federal law or administrative rule or regulation, or a decision of a state or federal court. Subject to section 12, the zoning ordinance shall take effect upon the expiration of 7 days after publication under section 11a or at such later date after publication as may be specified by the county board of commissioners, regardless of the requirements relative to the effective date of county ordinances as specified in Act No. 156 of the Public Acts of 1851, being sections 46.1 to 46.32 of the Michigan Compiled Laws. The zoning ordinance and subsequent amendments shall be filed with the county clerk, who shall maintain a copy in the office of the county clerk for public use.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.211;—Am. 1960, Act 86, Eff. Aug. 17, 1960;—Am. 1978, Act 640, Eff. Apr. 12, 1979;—Am. 1996, Act 296, Imd. Eff. June 19, 1996.

Compiler's note: For transfer of responsibility for review and approval of county zoning ordinances and interim zoning ordinances from the Department of Natural Resources to the Department of Commerce, see E.R.O. No. 1980-1, compiled at § 16.732 of the Michigan Compiled Laws.

Transfer of powers: See § 16.732.

125.211a Notice of adoption; publication; contents.

Sec. 11a. (1) Not more than 15 days after adoption of a zoning ordinance or subsequent amendments by the county board of commissioners and approval by the department of consumer and industry services, 1 notice of adoption shall be published in a newspaper of general circulation in the county. Promptly following adoption of a zoning ordinance or subsequent amendment by the county board of commissioners and approval by the department of consumer and industry services, a copy of the notice of adoption shall also be mailed to the airport manager of an airport entitled to notice under section 9(2).

(2) A notice of adoption under subsection (1) shall include the following information:

(a) In the case of a newly adopted zoning ordinance the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the county board of commissioners of the county of _____."

(b) In the case of an amendment to an existing zoning ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.

(c) The effective date of the ordinance.

(d) The place where and time when a copy of the ordinance may be purchased or inspected.

History: Add. 1978, Act 640, Eff. Apr. 12, 1979;—Am. 2000, Act 385, Eff. Mar. 28, 2001.

125.212 Filing petition for submission of zoning ordinance to electors.

Sec. 12. (1) Within 7 days after publication of a zoning ordinance under section 11a, a registered elector residing in the portion of the county outside the limits of cities and villages may file with the county clerk a notice of intent to file a petition under this section. If a notice of intent is filed, then within 30 days after the publication of the zoning ordinance, a petition signed by a number of registered electors residing in that portion of the county outside the limits of cities and villages equal to not less than 15% of the total vote cast for all candidates for governor, at the last preceding general election at which a governor was elected, in that portion of the county outside the limits of cities and villages, may be filed with the county clerk requesting the submission of the zoning ordinance or a part of the zoning ordinance to the electors residing in that portion of the county outside the limits of cities and villages for their approval or rejection. Upon the filing of the notice of intent, the zoning ordinance or part of the zoning ordinance shall not take effect until 1 of the following occurs:

(a) The expiration of 30 days after publication of the ordinance, if a petition is not filed within that time.

(b) If a petition is filed within 30 days after publication of the ordinance, the county clerk determines that the petition is inadequate.

(c) If a petition is filed within 30 days after publication of the ordinance, the county clerk determines that the

petition is adequate and the ordinance or part of the ordinance is approved by a majority of the registered electors residing in that portion of the county outside the limits of cities and villages voting on the zoning ordinance or part of the zoning ordinance at a regular election or special election called for that purpose. The county board of commissioners shall provide the manner of submitting the zoning ordinance or part of the zoning ordinance to the electors for their approval and determining the result of the election.

(2) This section supersedes the requirements relative to referenda on county ordinances under Act No. 156 of the Public Acts of 1851, being sections 46.1 to 46.32 of the Michigan Compiled Laws.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.212;—Am. 1960, Act 86, Eff. Aug. 17, 1960;—Am. 1961, Act 229, Eff. Sept. 8, 1961;—Am. 1978, Act 640, Eff. Apr. 12, 1979;—Am. 1996, Act 296, Imd. Eff. June 19, 1996.

125.212a Violation of §§ 168.1 to 168.992 applicable to petitions; penalties.

Sec. 12a. A petition under section 12, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 151, Eff. Mar. 23, 1999.

125.213 Report on operations of zoning ordinance; availability of report and other writings to public.

Sec. 13. Following the enactment of the zoning ordinance, the county zoning commission shall prepare and file with the county board of commissioners a report on the operations of the zoning ordinance including recommendations as to the enactment of amendments or supplements to the zoning ordinance at least once each year. The report and any other writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.213;—Am. 1961, Act 229, Eff. Sept. 8, 1961;—Am. 1977, Act 187, Imd. Eff. Nov. 17, 1977;—Am. 1978, Act 640, Eff. Apr. 12, 1979.

125.214 Zoning ordinance; amendment.

Sec. 14. Amendments or supplements to the zoning ordinance may be made from time to time in the same manner provided in this act for the enactment of the original ordinance.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.214.

125.215 Interim zoning ordinance.

Sec. 15. To protect the public health, safety, and general welfare of the inhabitants of the county, and the lands and resources of the county during the period required for the preparation and enactment of an ordinance authorized by this act as provided by sections 7 to 12, the county board of commissioners may direct the county zoning commission to submit, within a specified period of time, recommendations as to the provisions of an interim zoning ordinance and to submit those recommendations without consideration for sections 7, 8, and 9. Before presenting its recommendations to the county board of commissioners, the zoning commission shall submit the interim zoning ordinance, or an amendment to the interim zoning ordinance, to the department of natural resources for approval, which approval shall be conclusively presumed unless the department of natural resources, within 15 days after the receipt of the ordinance or amendment notifies the county clerk in writing of its disapproval. Disapproval of a county interim zoning ordinance or an amendment to an interim zoning ordinance shall be based upon noncompliance or conflict with either state or federal law or administrative rule, or a decision of a state or federal court. After approval by the department of natural resources, the county board of commissioners by majority vote of its members may enact an interim ordinance or an amendment to an interim ordinance without consideration for sections 10 and 12 and give the interim ordinance or an amendment to an interim ordinance immediate effect. A notice of adoption of the interim ordinance or an amendment to the interim ordinance shall be published within 15 days after its adoption by the county board of commissioners by 1 publication of a notice containing the information stipulated in section 11a in a newspaper of general circulation published in the county. The interim ordinance or an amendment to the interim ordinance shall be filed with the county clerk and the department of natural resources. The interim ordinance shall be limited to 1 year from the date it becomes effective and to not more than 2 years of renewal thereafter by resolution of the county board of commissioners.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.215;—Am. 1960, Act 86, Eff. Aug. 17, 1960;—Am. 1978, Act 640, Eff.

Apr. 12, 1979.

Compiler's note: For transfer of responsibility for review and approval of county zoning ordinances and interim zoning ordinances from the Department of Natural Resources to the Department of Commerce, see E.R.O. No. 1980-1, compiled at § 16.732 of the Michigan Compiled Laws.

Transfer of powers: See § 16.732.

125.216 Nonconforming uses.

Sec. 16. (1) The lawful use of a building or structure and of land or a premise as existing and lawful at the time of enactment of a zoning ordinance, or in the case of an amendment of an ordinance, then at the time of the amendment, may be continued although that use does not conform with the provisions of the zoning ordinance or amendment.

(2) The county board of commissioners shall provide in a zoning ordinance for the completion, restoration, reconstruction, extension, or substitution of nonconforming uses upon reasonable terms set forth in the zoning ordinance. In establishing the terms for the completion, restoration, reconstruction, extension, or substitution of nonconforming uses or structures, different classes of nonconforming use may be established in the ordinance with different regulations applicable to each class.

(3) A county may acquire, by purchase, condemnation, or otherwise private property or an interest in private property for the removal of nonconforming uses. The cost and expense, or a portion of the cost and expense, of acquiring the private property may be paid from general funds or assessed to a special district in accordance with the applicable statutory provisions relating to the creation and operation of special assessment districts for public improvements in counties. The elimination of nonconforming uses and structures in a zoning district is declared to be for a public purpose and for a public use. The county board of commissioners may institute and prosecute proceedings for condemnation of nonconforming uses and structures under the power of eminent domain in accordance with Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Michigan Compiled Laws, or any other applicable statute.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.216;—Am. 1978, Act 640, Eff. Apr. 12, 1979.

125.216a “State licensed residential facility” defined; state licensed residential facility considered residential use and permitted use; provisions inapplicable to adult foster care facilities; review by county board of commissioners; notice to residents; denial of license; exceptions.

Sec. 16a. (1) As used in this section, “state licensed residential facility” means a structure constructed for residential purposes that is licensed by the state pursuant to Act No. 287 of the Public Acts of 1972, as amended, being sections 331.681 to 331.694 of the Michigan Compiled Laws, or Act No. 116 of the Public Acts of 1973, as amended, being sections 722.111 to 722.128 of the Michigan Compiled Laws, which provides resident services for 6 or less persons under 24-hour supervision or care for persons in need of that supervision or care.

(2) In order to implement the policy of this state that persons in need of community residential care shall not be excluded by zoning from the benefits of normal residential surroundings, a state licensed residential facility providing supervision or care, or both, to 6 or less persons shall be considered a residential use of property for the purposes of zoning and a permitted use in all residential zones, including those zoned for single family dwellings, and shall not be subject to a special use or conditional use permit or procedure different from those required for other dwellings of similar density in the same zone.

(3) This section shall not apply to adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.

(4) At least 45 days before licensing a residential facility described in subsection (1), the state licensing agency shall notify the county board of commissioners or its designated agency of the county where the proposed facility is to be located to review the number of existing or proposed similar state licensed residential facilities whose property lines are within a 1,500 foot radius of the property lines of the location of the applicant. The county board of commissioners of a county or an agency of the county to which the authority is delegated may, when a proposed facility is to be located within the county, give appropriate notification of the proposal to license the facility to those residents whose property lines are within a 1,500 foot radius of the property lines of the proposed facility. A state licensing agency shall not license a proposed residential facility when another state licensed residential facility exists within the 1,500 foot radius, unless permitted by local zoning ordinances, of the proposed location or when the issuance of the license would substantially contribute to an excessive concentration of state licensed residential facilities within the county. This subsection shall not apply to state licensed residential facilities caring for 4 or less

minors.

(5) This section shall not apply to a state licensed residential facility licensed before March 31, 1977, or to a residential facility which was in the process of being developed and licensed before March 31, 1977, if approval had been granted by the appropriate local governing body.

History: Add. 1976, Act 394, Eff. Mar. 31, 1977;—Am. 1977, Act 30, Imd. Eff. June 15, 1977.

125.216b Special land uses.

Sec. 16b. (1) A county may provide in a zoning ordinance for special land uses which shall be permitted in a zoning district only after review and approval by either the zoning commission, an official charged with administering the ordinance, or the county board of commissioners. The ordinance shall specify all of the following:

(a) The special land uses and activities eligible for approval consideration and the body or official charged with reviewing special land uses and granting approval.

(b) The requirements and standards upon which decisions on requests for special land use approval shall be based.

(c) The procedures and supporting materials required for application, review, and approval.

(2) Upon receipt of an application for a special land use that requires a decision on discretionary grounds, 1 notice that a request for special land use approval has been received shall be published in a newspaper that circulates in the county and sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. The notice shall be given not less than 5 and not more than 45 days before the date the application will be considered. If the name of the occupant is not known, the term “occupant” may be used in making notification. Notification need not be given to more than 1 occupant of a structure, except that if a structure contains more than 1 dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, 1 occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than 4 dwelling units or other spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall do all of the following:

(a) Describe the nature of the special land use request.

(b) Indicate the geographic areas that are included in the special land use request.

(c) State when and where the special land use request will be considered.

(d) Indicate when and where written comments will be received concerning the request.

(e) Indicate that a public hearing on the special land use request may be requested by a property owner or the occupant of a structure located within 300 feet of the boundary of the property being considered for a special use.

(3) At the initiative of the body or official responsible for approving special land uses, upon the request of the applicant for special land use authorization, or upon the request of a property owner or the occupant of a structure located within 300 feet of the boundary of the property being considered for a special land use, a public hearing with notification as required for a notice of a request for special land use approval as provided in subsection (2) shall be held before a decision is made on a special land use request that is based on discretionary grounds. If the applicant or the body or official responsible for approving special land uses requests a public hearing, only notification of the public hearing need be made. A decision on a special land use that is based on discretionary grounds shall not be made unless notification of the request for special land use approval, or notification of a public hearing on a special land use request, has been made as required by this section.

(4) The body or official designated in the zoning ordinance to review and approve special land uses may deny or approve, or approve with conditions, a request for special land use approval. The decision on a special land use shall be incorporated in a statement of conclusions relative to the special land use under consideration that specifies the basis for the decision and any conditions imposed.

History: Add. 1978, Act 640, Eff. Apr. 12, 1979;—Am. 1989, Act 246, Imd. Eff. Dec. 21, 1989.

125.216c Planned unit development.

Sec. 16c. (1) As used in this section, “planned unit development” includes cluster zoning, planned development, community unit plan, planned residential development, and other terminology denoting zoning requirements which are designed to accomplish the objectives of a zoning ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.

(2) A county may establish in a zoning ordinance planned unit development requirements which permit flexibility in the regulation of land development; encourage innovation in land use and variety in design, layout, and type of structures constructed; achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities; encourage useful open space; and provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of the state. The review and approval of a planned unit development shall be made by the zoning commission, an official charged with administration of the ordinance, or the county board of commissioners.

(3) Within a land development project designated as a planned unit development, regulations relating to the use of land, including permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas and how they are to be preserved, and land use density shall be determined in accordance with the planned unit development regulations specified in the zoning ordinance. The planned unit development regulations need not be uniform with regard to each type of land use if equitable procedures recognizing due process principles and avoiding arbitrary decisions have been followed in making regulatory decisions. Unless explicitly prohibited by the planned unit development regulations, if requested by the landowner, a county may approve a planned unit development with open space that is not contiguous with the rest of the planned unit development.

(4) The planned unit development regulations established by a county shall specify the following:

(a) The body or official which shall review and approve planned unit development requests.

(b) The conditions which create planned unit development eligibility, the participants in the review process, and the requirements and standards upon which applications will be judged and approval granted.

(c) The procedures required for application, review, and approval.

(5) Following receipt of a request to approve a planned unit development, the body or official charged in the ordinance with the review and approval of planned unit developments shall hold at least 1 public hearing on the request. A zoning ordinance may provide for 1 or more preapplication conferences before submission of a planned unit development request, and the submission of preliminary site plans before the public hearing. Notification of the public hearing shall be given in the same manner as required by section 16b(3) for public hearings on special land uses. Within a reasonable time following the public hearing, the body or official responsible for approving planned unit developments shall give final consideration to and shall deny, approve, or approve with conditions the request. The body or official shall prepare a report stating its conclusions on the request for a planned unit development, the basis for its decision, the decision, and conditions relating to an affirmative decision. If the zoning ordinance requires that the county board of commissioners amend the ordinance to approve the planned unit development request, the zoning commission shall conduct the hearing as required by section 9, and the report and documents related to the planned unit development request shall be transmitted to the county board of commissioners for consideration in making a final decision. If an amendment of a zoning ordinance is required by the planned unit development regulations of a county zoning ordinance, the requirements of this act for amendment of a zoning ordinance shall be followed. However, the hearing and notice required by this subsection shall be regarded as fulfilling the public hearing and notice requirements of section 9.

(6) If the planned unit development regulations of a county zoning ordinance do not require amendment of the ordinance to authorize a planned unit development, the body or official charged in the zoning ordinance with review and approval of planned unit developments shall approve, approve with conditions, or deny a request.

(7) Final approvals may be granted on each phase of multiphased planned unit development if each phase contains the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the planned unit development and the residents of the surrounding area.

(8) In establishing planned unit development regulations, a county may incorporate by reference other applicable ordinances or statutes which regulate land development. The planned unit development regulations contained in a zoning ordinance shall encourage complementary relationships between zoning regulations and other requirements affecting the development of land.

History: Add. 1978, Act 640, Eff. Apr. 12, 1979;—Am. 2003, Act 229, Imd. Eff. Dec. 18, 2003.

125.216d Discretionary decisions; requirements, standards, and conditions.

Sec. 16d. (1) If a county zoning ordinance authorizes the consideration and approval of special land uses or planned unit developments pursuant to section 16b or 16c, or otherwise provides for discretionary decisions, the regulations and standards upon which those decisions are made shall be specified in the ordinance. The standards shall be consistent with, and promote the intent and purpose of the zoning ordinance, and insure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use. The standards shall also insure that the land use or activity is

consistent with the public health, safety, and welfare of the county. A request for approval of a land use or activity which is in compliance with the standards stated in the zoning ordinance and the conditions imposed thereunder, other applicable ordinances, and state and federal statutes shall be approved.

(2) Reasonable conditions may be required in conjunction with the approval of a special land use, planned unit development, or other land uses or activities permitted by discretionary decision. The conditions may include conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet the following requirements:

(a) Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being of those who will use the land use or activity under consideration, residents, and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

(b) Be related to the valid exercise of the police power, and to the proposed use or activity.

(c) Be necessary to meet the intent and purpose of the zoning requirements; be related to the standards established in the ordinance for the land use or activity under consideration; and be necessary to insure compliance with those standards.

(3) The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the approving official or body and the owner of the land affected. The approving official or body shall maintain a record of conditions which are changed.

History: Add. 1978, Act 640, Eff. Apr. 12, 1979.

125.216e Site plan.

Sec. 16e. (1) As used in this section, "site plan" means the documents and drawings specified in the zoning ordinance needed to insure that a proposed land use or activity is in compliance with local ordinances and with state and federal statutes.

(2) A county may require the submission and approval of a site plan before authorization of a land use or activity regulated by a zoning ordinance. The zoning ordinance shall specify the body, board or official charged with reviewing site plans and granting approval.

(3) If a zoning ordinance requires site plan approval, the site plan, as approved, shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan, unless a change conforming to the zoning ordinance receives the mutual agreement of the owner of the land affected and the individual or body which initially approved the site plan.

(4) The procedures and requirements for the submission and approval of site plans shall be specified in the zoning ordinance. Site plan submission, review, and approval shall be required for special land uses and planned unit developments. Decisions rejecting, approving, or conditionally approving a site plan shall be based upon standards and requirements contained in the zoning ordinance.

(5) A site plan shall be approved if it contains the information required by the zoning ordinance and is in compliance with the zoning ordinance, the conditions imposed under the zoning ordinance, other applicable ordinances, and state and federal statutes.

History: Add. 1978, Act 640, Eff. Apr. 12, 1979.

125.216f Improvements; deposit of performance guarantee.

Sec. 16f. (1) As used in this section, "improvement" means a feature or action associated with a project which is considered necessary by the body or official granting zoning approval, to protect natural resources or the health, safety, and welfare of the residents of a county and future users or inhabitants of the proposed project or project area including, but not limited to roadways, lighting, utilities, sidewalks, screening, and drainage. The term "improvements" shall not be construed to mean the entire project which is the subject of zoning approval.

(2) To insure compliance with a zoning ordinance and conditions imposed under a zoning ordinance, a county may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the county covering the estimated cost of improvements associated with a project for which site plan approval is sought, be deposited with the clerk of the county to insure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The county may not require the deposit of the performance guarantee until the county is prepared to issue

the permit. The county shall establish procedures by which a rebate of cash deposits in reasonable proportion to the ratio of work completed on the required improvements shall be made as work progresses.

(3) This section shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited pursuant to Act No. 288 of the Public Acts of 1967, as amended, being sections 560.101 to 560.293 of the Michigan Compiled Laws.

History: Add. 1978, Act 640, Eff. Apr. 12, 1979.

125.216g Family day-care home as residential use of property; issuance of permits for group day-care home meeting certain standards; inspection; compliance; subsequent establishment of certain facilities; permit for group day-care home not meeting certain standards; measurement of distances.

Sec. 16g. (1) As used in this section, “family day-care home” and “group day-care home” mean those terms as defined in section 1 of Act No. 116 of the Public Acts of 1973, being section 722.111 of the Michigan Compiled Laws, and only apply to the bona fide private residence of the operator of the family or group day-care home.

(2) A family day-care home licensed or registered under Act No. 116 of the Public Acts of 1973, being sections 722.111 to 722.128 of the Michigan Compiled Laws, shall be considered a residential use of property for the purposes of zoning and a permitted use in all residential zones, including those zoned for single family dwellings, and shall not be subject to a special use or conditional use permit or procedure different from those required for other dwellings of similar density in the same zone.

(3) A group day-care home licensed or registered under Act No. 116 of the Public Acts of 1973 shall be issued a special use permit, conditional use permit, or other similar permit if the group day-care home meets the following standards:

(a) Is located not closer than 1,500 feet to any of the following:

(i) Another licensed group day-care home.

(ii) Another adult foster care small group home or large group home licensed under the adult foster care facility licensing act, Act No. 218 of the Public Acts of 1979, being sections 400.701 to 400.737 of the Michigan Compiled Laws.

(iii) A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under article 6 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.6101 to 333.6523 of the Michigan Compiled Laws.

(iv) A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the department of corrections.

(b) Has appropriate fencing for the safety of the children in the group day-care home as determined by the county.

(c) Maintains the property consistent with the visible characteristics of the neighborhood.

(d) Meets regulations, if any, governing signs used by a group day-care home to identify itself.

(e) Meets regulations, if any, requiring a group day-care home operator to provide off-street parking accommodations for his or her employees.

(f) Does not exceed 16 hours of operation during a 24-hour period. The county may limit but not prohibit the operation of a group day-care home between the hours of 10 p.m. and 6 a.m.

(4) This section shall not prevent a county from inspecting a family or group day-care home for the home's compliance with the county's ordinance and enforcing the county's ordinance, if the ordinance is not more restrictive for that home than Act No. 116 of the Public Acts of 1973, being sections 722.111 to 722.128 of the Michigan Compiled Laws, or rules promulgated pursuant to Act No. 116 of the Public Acts of 1973.

(5) A licensed or registered family or group day-care home that has operated prior to the effective date of the amendatory act that added this section is not required to comply with the requirements of this section.

(6) The subsequent establishment of any of the facilities listed in subsection (3)(a)(i) to (iv) of this section, within 1,500 feet of the licensed or registered group day-care home will not affect any subsequent special use permit renewal, conditional use permit renewal, or other similar permit renewal pertaining to the group day-care home.

(7) This section shall not prevent a county from issuing a special use permit, conditional use permit, or other similar permit to a licensed or registered group day-care home that does not meet the standards listed in subsection (3)(a) to (f).

(8) The distances specified in subsections (3)(a) and (6) shall be measured along a road, street, or place maintained by this state or a political subdivision of this state and generally open to use by the public as a matter of right for the purpose of vehicular traffic, not including an alley.

COUNTY ZONING ACT

History: Add. 1988, Act 447, Eff. Mar. 30, 1989.

Administrative rules: R 400.1301 et seq. of the Michigan Administrative Code.

125.216h Qualified county zoning ordinances; option of landowner to develop land zoned for residential development; requirements; limitations; “qualified county” defined; zoning ordinance provisions cited as “open space preservation.”

Sec. 16h. (1) Subject to subsection (4) and section 12, beginning 1 year after the effective date of the amendatory act that added this section, each qualified county shall provide in its zoning ordinance that land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units on a portion of the land specified in the zoning ordinance, but not more than 50%, that, as determined by the county, could otherwise be developed, under existing ordinances, laws, and rules, on the entire land area, if all of the following apply:

(a) The land is zoned at a density equivalent to 2 or fewer dwelling units per acre, or, if the land is served by a public sewer system, 3 or fewer dwelling units per acre.

(b) A percentage of the land area specified in the zoning ordinance, but not less than 50%, will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land, as prescribed by the zoning ordinance.

(c) The development does not depend upon the extension of a public sewer or public water supply system, unless development of the land without the exercise of the option provided by this subsection would also depend upon such an extension.

(d) The option provided pursuant to this subsection has not previously been exercised with respect to that land.

(2) After a landowner exercises the option provided pursuant to subsection (1), the land may be rezoned accordingly.

(3) The development of land under subsection (1) is subject to other applicable ordinances, laws, and rules, including rules relating to suitability of groundwater for on-site water supply for land not served by public water and rules relating to suitability of soils for on-site sewage disposal for land not served by public sewers.

(4) Subsection (1) does not apply to a qualified county if both of the following requirements are met:

(a) Since on or before October 1, 2001, the county has had in effect a zoning ordinance provision providing for both of the following:

(i) Land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units on a portion of the land that, as determined by the county, could otherwise be developed, under existing ordinances, laws, and rules, on the entire land area.

(ii) If the landowner exercises the option provided by subparagraph (i), the portion of the land not developed will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land.

(b) On or before the enactment date of the amendatory act that added this section, a landowner exercised the option provided under the zoning ordinance provision referred to in subdivision (a) with at least 50% of the land area remaining perpetually in an undeveloped state.

(5) As used in this section, “qualified county” means a county that meets all of the following requirements:

(a) Has adopted a zoning ordinance.

(b) Has a population of 1,800 or more.

(c) Has land that is not developed and that is zoned for residential development at a density described in subsection (1)(a).

(6) The zoning ordinance provisions required by subsection (1) shall be known and may be cited as the “open space preservation” provisions of the zoning ordinance.

History: Add. 2001, Act 178, Imd. Eff. Dec. 15, 2001.

125.217 Repealed. 1960, Act 86, Eff. Aug. 17, 1960.

Compiler's note: The repealed section related to county zoning commission record of nonconforming uses of property.

125.218 County board of zoning appeals; appointment, qualifications, and terms of members; per diem or expenses; removal; quorum.

Sec. 18. (1) In a county in which the county board of commissioners exercises the authority conferred by this act, it shall provide for and appoint a county board of zoning appeals of not less than 3 and not more than 7 members. The term of each member shall be for 3 years, except that the first board appointed shall be divided as

nearly as possible into 3 equal groups with the terms of office for each group as follows:

- (a) One group for 1 year.
- (b) One group for 2 years.
- (c) One group for 3 years.

(2) Each member of the county board of zoning appeals shall be chosen from electors residing in the unincorporated area of the county. An elected officer of the county or an employee of the county board of commissioners may not serve simultaneously as a member of or as an employee of the county board of zoning appeals. One member of the board of appeals shall be a member of the county zoning commission. The term of a member of the county board of zoning appeals serving because of membership on the zoning commission shall expire upon termination of membership on the zoning commission.

(3) The total amount allowed a member of the county board of zoning appeals in 1 year as per diem or as expenses actually incurred in the discharge of the member's duty shall not exceed a reasonable sum which sum shall be provided annually in advance by the county board of commissioners. The county board of commissioners shall provide for the removal of a member for nonfeasance or misfeasance in office. A majority of the total membership of the county board of zoning appeals shall comprise a quorum.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.218;—Am. 1960, Act 86, Eff. Aug. 17, 1960;—Am. 1978, Act 640, Eff. Apr. 12, 1979.

125.219 County board of appeals; meetings; oaths; compelling attendance of witnesses; conducting business at public meeting; notice of meeting; record of proceedings; availability of record and other writings to public.

Sec. 19. (1) Meetings of the board of appeals shall be held at the call of the chairperson and at other times as the board in its rules of procedure may specify. The chairperson, or in the chairperson's absence the acting chairperson, may administer oaths and compel the attendance of witnesses. The business which the board of appeals may perform shall be conducted at a public meeting of the board of appeals held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(2) The board shall maintain a record of its proceedings which shall be filed in the office of the county clerk. The record and any other writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.219;—Am. 1977, Act 187, Imd. Eff. Nov. 17, 1977.

125.220 County board of zoning appeals; duties; variance.

Sec. 20. (1) The county board of zoning appeals shall hear and decide questions that arise in the administration of the zoning ordinance, including the interpretation of the zoning maps, and may adopt rules to govern its procedure sitting as a board of appeals. It shall hear and decide appeals from and review an order, requirement, decision, or determination made by an administrative official or body charged with enforcement of an ordinance adopted pursuant to this act. It shall also hear and decide all matters referred to it or upon which it is required to pass under an ordinance adopted pursuant to this act. For special land use and planned unit development decisions, an appeal may be taken to the board of appeals only if provided for in the zoning ordinance.

(2) The concurring vote of a majority of the members of the county board of zoning appeals is necessary to reverse an order, requirement, decision, or determination of the administrative official or body, or to decide in favor of the applicant a matter upon which the board is required to pass under the ordinance, or to grant a variance in the ordinance. An appeal may be taken by a person aggrieved or by an officer, department, board, or bureau of the township, county, or state. In addition, a variance in the ordinance may be applied for and granted pursuant to section 4 of the uniform condemnation procedures act, 1980 PA 87, MCL 213.54, and this act. The county board of zoning appeals shall state the grounds of each determination.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.220;—Am. 1978, Act 640, Eff. Apr. 12, 1979;—Am. 2000, Act 18, Imd. Eff. Mar. 8, 2000.

125.221 County board of appeals; appeals.

Sec. 21. Such appeal shall be taken within such time as shall be prescribed by the board of appeals by general rule, by the filing with the officer from whom the appeal is taken and with the board of appeals of a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board, all

the papers constituting the record upon which the action appealed from was taken.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.221.

125.222 County board of appeals; restraining order.

Sec. 22. An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the board of appeals after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of appeals or by the circuit court, on application, on notice to the officer from whom the appeal is taken and on due cause shown.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.222.

125.223 County board of zoning appeals; hearing; notice; appearance of party; powers; decision final; judicial review.

Sec. 23. (1) The county board of zoning appeals shall fix a reasonable time for the hearing of the appeal and give due notice of the appeal to the parties, and decide the appeal within a reasonable time. At the hearing, a party may appear in person or by the agent or by attorney. The county board of zoning appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer or body from whom the appeal was taken and may issue or direct the issuance of a permit. If there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the zoning ordinance, the county board of zoning appeals, in passing upon appeals, may vary or modify any of its rules or provisions so that the spirit of the ordinance shall be observed, public safety secured, and substantial justice done.

(2) The county board of zoning appeals may impose conditions with an affirmative decision, pursuant to section 16d(2). The decision of the county board of zoning appeals shall be final. However, a person having an interest affected by the zoning ordinance has the right to appeal to the circuit court. Upon appeal the circuit court shall review the record and decision of the county board of zoning appeals to insure that the decision meets the following requirements:

- (a) Complies with the state constitution of 1963 and the laws of this state.
- (b) Is based upon proper procedure.
- (c) Is supported by competent, material, and substantial evidence on the record.
- (d) Represents the reasonable exercise of discretion granted by law to the county board of zoning appeals.

(3) If the court finds the record of the county board of zoning appeals inadequate to make the review required by this section, or that there is additional evidence which is material and with good reason was not presented to the county board of zoning appeals, the court shall order further proceedings before the county board of zoning appeals on conditions which the court considers proper. The county board of zoning appeals may modify its findings and decision as a result of the new proceedings, or may affirm its original decision. The supplementary record and decision shall be filed with the court.

(4) As a result of the review required by this section, the court may affirm, reverse, or modify the decision of the county board of zoning appeals.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.223;—Am. 1978, Act 640, Eff. Apr. 12, 1979.

125.224 Violation as nuisance per se; abatement; liability; administration and enforcement of ordinance; penalties; fees for zoning permits.

Sec. 24. (1) A use of land or of a building, or a building erected, altered, razed, or converted in violation of a local ordinance or requirement adopted pursuant to this act is a nuisance per se. The court shall order the nuisance abated and the owner or agent in charge of the building or land is liable for maintaining a nuisance per se. The county board of commissioners of a county shall in the ordinance enacted pursuant to this act designate the proper official or officials who shall administer and enforce the ordinance and do either of the following for each violation of the ordinance:

- (a) Provide a penalty for the violation.
- (b) Designate the violation as a municipal civil infraction and provide a civil fine for the violation.

(2) The county board may require the payment of reasonable fees for zoning permits as a condition for permission to use, erect, alter, or locate structures within a zoning district.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.224;—Am. 1978, Act 640, Eff. Apr. 12, 1979;—Am. 1994, Act 23, Eff.

May 1, 1994.

125.225 Tax levy; purpose; collection; application to payment of indebtedness.

Sec. 25. For the purpose of providing funds to carry out this act, the county board of commissioners of the county shall levy a sufficient tax, in addition to other taxes authorized by law, upon the real and personal property subject to taxation in the county, and the taxes shall be collected as other taxes are collected, and at the time collected shall be applied to the payment of any indebtedness incurred by a county coming under the provisions of this act, and to no other purpose as long as the taxes assessed, levied, and collected shall not cause the limit of taxes established by law to be exceeded.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.225;—Am. 1978, Act 640, Eff. Apr. 12, 1979.

125.226 Prior act; applicability.

Sec. 26. Act No. 79 of the Public Acts of 1929, as in effect prior to May 6, 1935, shall remain in full force and effect as applicable to those townships in which the same became operative by adoption of the electors of such townships, pursuant to the terms thereof, prior to May 6, 1935, and shall remain operative as to any such township until the county of which such township is a part shall have adopted and made effective an ordinance enacted under the terms of this act.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.226.

Compiler's note: Act 79 of 1929, referred to in this section, was repealed by § 125.232.

125.227 Prior ordinance effective until new ordinance adopted.

Sec. 27. In the event any county shall have an ordinance adopted and in effect or shall have had a referendum authorizing an ordinance under the provisions of Act No. 79 of the Public Acts of 1929, as in effect prior to January 1, 1942, such ordinance or any ordinance hereafter adopted by reason of such referendum under the provisions of Act No. 79 of the Public Acts of 1929 shall remain in full force and effect until a new ordinance is adopted and in effect under the provisions of this act.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.227.

Compiler's note: Act 79 of 1929, referred to in this section, was repealed by § 125.232.

125.227a Effect of zoning ordinance or decision in presence of demonstrated need.

Sec. 27a. A zoning ordinance or zoning decision shall not have the effect of totally prohibiting the establishment of a land use within a county in the presence of a demonstrated need for that land use within either the county or surrounding area within the state, unless there is no location within the county where the use may be appropriately located, or unless the use is unlawful.

History: Add. 1978, Act 640, Eff. Apr. 12, 1979.

125.228 Provisions not applicable.

Sec. 28. Except as specifically provided by this act, the provisions of subdivision 13 of section 11 of Act No. 156 of the Public Acts of 1856 shall not apply to the enactment of an ordinance under the provisions of this act.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.228.

Compiler's note: "Public Acts of 1856," referred to in this section, should read "Public Acts of 1851." For provisions of section 11 of Act 156, see § 46.11.

125.229 Act controlling.

Sec. 29. Insofar as the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.229.

125.231 Adoption of development rights ordinance; establishment, financing, and administration of purchase of development rights program; limitation; use; scope; separate ordinance; agreements between counties, cities, villages, and townships.

Sec. 31. (1) The county board of commissioners of a county may adopt a development rights ordinance limited to the establishment, financing, and administration of a PDR program, as provided under this section and sections 32 and 33. The PDR program may be used only to protect agricultural land and other eligible land. This section and sections 32 and 33 do not expand the condemnation authority of a county as otherwise provided for in this act. A

PDR program shall not acquire development rights by condemnation. This section and sections 32 and 33 do not limit any authority that may otherwise be provided by law for a county to protect natural resources, preserve open space, provide for historic preservation, or accomplish similar purposes.

(2) A county shall not establish, finance, or administer a PDR program unless the county board of commissioners adopts a development rights ordinance. If the county has a zoning ordinance, the development rights ordinance may be adopted as part of the zoning ordinance pursuant to the procedures governing adoption of a zoning ordinance set forth in this act. Whether or not the county has a zoning ordinance, the development rights ordinance may be adopted as a separate ordinance pursuant to the procedures governing ordinance adoption in general.

(3) A county board of commissioners may promote and enter into agreements between counties, cities, villages, and townships for the purchase of development rights, including cross-jurisdictional purchase, subject to applicable development rights ordinances of counties and similar ordinances of cities, villages, and townships.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.231;—Am. 1996, Act 569, Eff. Mar. 31, 1997.

125.232 Development rights ordinance providing for PDR program; specifications; consistency with plan; conveyance; notice of application for purchase of development rights; requirements for purchase.

Sec. 32. (1) A development rights ordinance shall provide for a PDR program. Under a PDR program, the county purchases development rights, but only from a willing landowner. A development rights ordinance providing for a PDR program shall specify all of the following:

- (a) The public benefits that the county may seek through the purchase of development rights.
- (b) The procedure by which the county or a landowner may by application initiate a purchase of development rights, which shall include city, village, or township approval if required under subsection (5).
- (c) The development rights authorized to be purchased subject to a determination under standards and procedures required by subdivision (d).
- (d) The standards and procedure to be followed by the county board of commissioners for approving, modifying, or rejecting an application to purchase development rights including the determination of all of the following:
 - (i) Whether to purchase development rights.
 - (ii) Which development rights to purchase.
 - (iii) The intensity of development permitted after the purchase on the land from which the development rights are purchased.
 - (iv) The price at which development rights will be purchased and the method of payment.
 - (v) The procedure for ensuring that the purchase or sale of development rights is legally fixed so as to run with the land.
- (e) The circumstances under which an owner of land from which development rights have been purchased under a PDR program may repurchase those development rights and how the proceeds of the purchase are to be used by the county.

(2) If the county has a zoning ordinance, the purchase of development rights shall be consistent with the plan referred to in section 3 upon which the zoning ordinance is based.

(3) Development rights acquired under a PDR program may be conveyed only as provided pursuant to subsection (1)(e).

(4) The county shall notify each city, village, or township in which is located land from which development rights are proposed to be purchased of the receipt of an application for the purchase of development rights and shall notify each such city, village, or township of the disposition of that application.

(5) The county shall not purchase development rights under a development rights ordinance from land subject to a city, village, or township zoning ordinance unless all of the following requirements are met:

- (a) The development rights ordinance provisions for the PDR program are consistent with the plan upon which the city, village, or township zoning is based.
- (b) The legislative body of the city, village, or township adopts a resolution authorizing the PDR program to apply in the city, village, or township.
- (c) As part of the application procedure for the specific proposed purchase of development rights, the city, village, or township provides the county with written approval of the purchase.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.232;—Am. 1996, Act 569, Eff. Mar. 31, 1997.

Compiler's note: Act 79 of 1929, referred to in this section, is CL 1929, §§ 2642 to 2651.

125.233 Financing of PDR program; sources; borrowing money and issuing bonds or notes;

pledge; lien; exemption from taxation; investment; disposition; special assessments.

Sec. 33. (1) A PDR program may be financed through 1 or more of the following sources:

- (a) General appropriations by the county.
- (b) Proceeds from the sale of development rights by the county subject to section 32(3).
- (c) Grants.
- (d) Donations.
- (e) Bonds or notes issued under subsections (2) to (5).
- (f) General fund revenue.
- (g) Special assessments under subsection (6).
- (h) Other sources approved by the county board of commissioners and permitted by law.

(2) The county board of commissioners may borrow money and issue bonds or notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, subject to the general debt limit applicable to the county. The bonds or notes may be revenue bonds or notes; general obligation limited tax bonds or notes; or, subject to section 6 of article IX of the state constitution of 1963, general obligation unlimited tax bonds or notes.

(3) The county board of commissioners may secure bonds or notes issued under this section by mortgage, assignment, or pledge of property including, but not limited to, anticipated tax collections, revenue sharing payments, or special assessment revenues. A pledge made by the county board of commissioners is valid and binding from the time the pledge is made. The pledge immediately shall be subject to the lien of the pledge without a filing or further act. The lien of the pledge shall be valid and binding as against parties having claims in tort, contract, or otherwise against the county, irrespective of whether the parties have notice of the lien. Filing of the resolution, the trust agreement, or another instrument by which a pledge is created is not required.

(4) Bonds or notes issued under this section are exempt from all taxation in this state except inheritance and transfer taxes, and the interest on the bonds or notes is exempt from all taxation in this state, notwithstanding that the interest may be subject to federal income tax.

(5) The bonds and notes issued under this section may be invested in by the state treasurer and all other public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by the state treasurer and all other public officers and the agencies and political subdivisions of this state for all purposes for which the deposit of bonds or notes is authorized. The authority granted by this section is in addition to all other authority granted by law.

(6) A development rights ordinance may authorize the county board of commissioners to finance a PDR program by special assessments. In addition to meeting the requirements of section 32, the development rights ordinance shall include in the procedure to approve and establish a special assessment district both of the following:

(a) The requirement that there be filed with the county board of commissioners a petition containing all of the following:

(i) A description of the development rights to be purchased, including a legal description of the land from which the purchase is to be made.

(ii) A description of the proposed special assessment district.

(iii) The signatures of the owners of at least 66% of the land area in the proposed special assessment district.

(iv) The amount and duration of the proposed special assessments.

(b) The requirement that the county board of commissioners specify how the proposed purchase of development rights will specially benefit the land in the proposed special assessment district.

History: Add. 1996, Act 569, Eff. Mar. 31, 1997;—Am. 2002, Act 203, Imd. Eff. Apr. 29, 2002.

125.239 Townships not subject to ordinance, rule, or regulation.

Sec. 39. A township in which an ordinance enacted under the township zoning act, Act No. 184 of the Public Acts of 1943, being sections 125.271 to 125.310 of the Michigan Compiled Laws, is in effect is not subject, unless otherwise provided in this act, to an ordinance, rule, or regulation adopted under this act.

History: Add. 1996, Act 569, Eff. Mar. 31, 1997.

125.240 Definitions; short title.

Sec. 40. (1) As used in this act:

(a) “Agricultural land” means substantially undeveloped land devoted to the production of plants and animals useful to humans, including forage and sod crops; grains, feed crops, and field crops; dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, and similar animals; berries; herbs;

COUNTY ZONING ACT

flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities.

(b) “Airport” means an airport licensed by the Michigan department of transportation, bureau of aeronautics under section 86 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.86.

(c) “Airport approach plan” means a plan, or an amendment to a plan, adopted under section 12 of the airport zoning act, 1950 (Ex Sess) PA 23, MCL 259.442, and filed with the county zoning commission under section 151 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.151.

(d) “Airport layout plan” means a plan, or an amendment to a plan, that shows current or proposed layout of an airport, that is approved by the Michigan aeronautics commission, and that is filed with the county zoning commission under section 151 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.151.

(e) “Airport manager” means that term as defined in section 10 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.10.

(f) “Airport zoning regulations” means airport zoning regulations under the airport zoning act, 1950 (Ex Sess) PA 23, MCL 259.431 to 259.465, for an airport hazard area that lies in whole or part in the area affected by a zoning ordinance under this act.

(g) “Conservation easement” means that term as defined in section 2140 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2140.

(h) “Development rights” means the rights to develop land to the maximum intensity of development authorized by law.

(i) “Development rights ordinance” means an ordinance, which may comprise part of a zoning ordinance, adopted under section 31.

(j) “Greenway” means a contiguous or linear open space, including habitats, wildlife corridors, and trails, that link parks, nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes.

(k) “Intensity of development” means the height, bulk, area, density, setback, use, and other similar characteristics of development.

(l) “Other eligible land” means land that has a common property line with agricultural land from which development rights have been purchased and that is not divided from that agricultural land by a state or federal limited access highway.

(m) “PDR program” means a program under section 32 for the purchase of development rights by a county.

(n) “Undeveloped state” means a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.

(2) This act shall be known and may be cited as the “county zoning act”.

History: Add. 1996, Act 569, Eff. Mar. 31, 1997;—Am. 2000, Act 385, Eff. Mar. 28, 2001;—Am. 2001, Act 178, Imd. Eff. Dec. 15, 2001.

Table Of Contents

COUNTY ZONING ACT — Act 183 of 1943	1
125.201 Zoning ordinance for establishment of land development regulations and districts; division of county into districts; purposes; uniform regulations; jurisdiction over wells; ordinance subject to electric transmission line certification act.	2
125.201a Residence used to give instruction in craft or fine art; regulations not prohibited.	2
125.202 Formulation of zoning ordinance on initiative of county board of commissioners or on receipt of petition; vote.	2
125.203 Zoning ordinance; basis; considerations.	2
125.203a Airport layout plan or airport approach plan; incorporation into plan required under § 125.203; adoption of zoning plan; ordinance; consistency.	3
125.204 County zoning commission; appointment, qualifications, and terms of members; vacancy; removal.	3
125.205 County zoning commission; meetings; notice; hearings; officers and employees.	3
125.206 County zoning commission; compensation; expenses; warrants.	3
125.207 County zoning commission; recommendations.	4
125.208 County zoning commission; information and counsel.	4
125.209 Public hearing; notice; affidavit of mailing.	4
125.210 Submission of comments and proposed zoning ordinance to county board of commissioners; additional public hearings; notice; recommendations; vote; approval; change or departure from plans, text, or maps; report.	5
125.211 Submission of zoning ordinance and maps to department of commerce for approval; presumption; disapproval; effective date of zoning ordinance; filing; copy for public use.	5
125.211a Notice of adoption; publication; contents.	5
125.212 Filing petition for submission of zoning ordinance to electors.	6
125.212a Violation of §§ 168.1 to 168.992 applicable to petitions; penalties.	6
125.213 Report on operations of zoning ordinance; availability of report and other writings to public.	6
125.214 Zoning ordinance; amendment.	6
125.215 Interim zoning ordinance.	7
125.216 Nonconforming uses.	7
125.216a “State licensed residential facility” defined; state licensed residential facility considered residential use and permitted use; provisions inapplicable to adult foster care facilities; review by county board of commissioners; notice to residents; denial of license; exceptions.	8
125.216b Special land uses.	8
125.216c Planned unit development.	9
125.216d Discretionary decisions; requirements, standards, and conditions.	10
125.216e Site plan.	10

Table of Contents

125.216f	Improvements; deposit of performance guarantee.	11
125.216g	Family day-care home as residential use of property; issuance of permits for group day-care home meeting certain standards; inspection; compliance; subsequent establishment of certain facilities; permit for group day-care home not meeting certain standards; measurement of distances.	12
125.216h	Qualified county zoning ordinances; option of landowner to develop land zoned for residential development; requirements; limitations; "qualified county" defined; zoning ordinance provisions cited as "open space preservation."	12
125.217	Repealed. 1960, Act 86, Eff. Aug. 17, 1960.	12
125.218	County board of zoning appeals; appointment, qualifications, and terms of members; per diem or expenses; removal; quorum.	13
125.219	County board of appeals; meetings; oaths; compelling attendance of witnesses; conducting business at public meeting; notice of meeting; record of proceedings; availability of record and other writings to public.	13
125.220	County board of zoning appeals; duties; variance.	13
125.221	County board of appeals; appeals.	14
125.222	County board of appeals; restraining order.	14
125.223	County board of zoning appeals; hearing; notice; appearance of party; powers; decision final; judicial review.	14
125.224	Violation as nuisance per se; abatement; liability; administration and enforcement of ordinance; penalties; fees for zoning permits.	15
125.225	Tax levy; purpose; collection; application to payment of indebtedness.	15
125.226	Prior act; applicability.	15
125.227	Prior ordinance effective until new ordinance adopted.	15
125.227a	Effect of zoning ordinance or decision in presence of demonstrated need.	15
125.228	Provisions not applicable.	15
125.229	Act controlling.	15
125.231	Adoption of development rights ordinance; establishment, financing, and administration of purchase of development rights program; limitation; use; scope; separate ordinance; agreements between counties, cities, villages, and townships.	16
125.232	Development rights ordinance providing for PDR program; specifications; consistency with plan; conveyance; notice of application for purchase of development rights; requirements for purchase.	16
125.233	Financing of PDR program; sources; borrowing money and issuing bonds or notes; pledge; lien; exemption from taxation; investment; disposition; special assessments.	17
125.239	Townships not subject to ordinance, rule, or regulation.	17
125.240	Definitions; short title.	18